HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

WRIT PETITION No. 4837 of 1999

Between:

K.V.S. Chalapati Reddy

… Petitioner

And

A.P. Transmission Corporation Limited,
Rep. by Director, Hyderabad
& another

… Respondents

:: O R D E R ::

Counsel for the petitioner : Shri V. Srinivas

Counsel for the respondents : Shri Samineni Kishore

February 14, 2007

This is the second round of litigation by the petitioner in the matter of his appointment as Typist/LDC in the services of the erstwhile Andhra Pradesh State Electricity Board (for short 'the Board') (now Andhra Pradesh Transmission Corporation Limited).

A perusal of the record shows that Writ Petition No.13780 of 1997 filed by the petitioner for issue of a mandamus to the concerned authority of the Board to consider his case for absorption on the post of Typist/LDC in accordance with the policy contained in B.P.Ms. No.36 dated 18.05.1997 was disposed of by the learned Single Judge by directing the concerned authority to interview him. In compliance of that order, the petitioner was interviewed by Superintending Engineer (Operation), Anantapur (respondent No.2), but his candidature was rejected by relying on award dated 24.10.1996 passed by Industrial Tribunal–I, Hyderabad in I.D.No.78 of 1992 – **The Workmen v. the Management of Andhra Pradesh State Electricity Board** and order dated 11.07.1994 passed by the Supreme Court in S.L.P.No.11335 of 1994.

In the affidavit filed by him, the petitioner has averred that even though he fulfils the conditions of eligibility prescribed in B.P.Ms.No.36 dated 18.05.1997, respondent No.2 arbitrarily rejected his candidature for appointment on the post of Typist/LDC.

In the counter-affidavit filed on behalf of the respondents, it has been averred that even though, in terms of the direction given by the High Court in Writ Petition No.13780 of 1997, the petitioner was interviewed, his candidature was rejected because he does not fall within the ambit of the term 'contract labour'.

Shri V. Srinivas learned counsel for the petitioner fairly stated that in view of the operative part of the award passed by the Industrial Tribunal, his client can avail remedy by filing appropriate application under the Contract Labour (Regulation and Abolition) Act, 1970 (for short, 'the 1970 Act') and not by means of writ petition.

In view of the statement of the learned counsel, the petitioner deserves to be relegated to the alternative remedy available to him under the 1970 Act.

Even otherwise, I am convinced that the rejection of the petitioner's candidature for appointment on the post of Typist/LDC does not suffer from any patent legal infirmity warranting interference by this Court because the petitioner has not produced any tangible evidence to prove that his case falls within the eligibility criteria enumerated in paragraphs 4 and 5 of B.P.Ms. No.36 dated 18.05.1997, which read as under:

"4. The A.P.S.E. Board accordingly issues the following orders in supersession of the orders issued in the reference 2 & 3rd cited.

i) Ex-Casual Labour:

The Ex-Casual labour who were already interviewed but failed in the test and given second chance and also obtained interim orders from the High Court for consideration are only eligible for selection for appointment against 50% of the existing vacancies in accordance with the guidelines contained in Memo No.DP/DM-I/A3/1138/95-1, dt.26.9.1985 read with Memo No.D/DM-I/C2/2519/93 dt.14.9.93.

ii) Village Electricity Workers:

In terms of the agreement dated 5.3.96, the cases of the Village Electricity Workers shall be

considered for selection and appointment against 50% of the existing vacancies subject to the condition that they are not eligible to derive any benefit for their earlier services and on selection they will be appointed as fresh candidates in A.P.S.E. Board.

iii) Contract Labour:

The contract labour other than those engaged in 33 abolished categories in generating station shall be considered for selection and appointment against 50% existing vacancies.

5. The conditions for selection of the candidates from the above categories shall be as follows:

a) Age: Age shall be reckoned as per Board's service regulations in force at the time of their first engagement. There shall be no relaxation of age.

b) Educational Qualifications: Educational Qualifications shall be as per Board's service regulations in force at the time of their first engagement. There shall be no relaxation of educational qualifications or other relevant technical qualifications with are prescribed in the service regulations for such appointment.

c) Seniority: The Seniority shall be reckoned based on the total period of service rendered by the respective candidates in the Unit as per muster rolls/wage register or as per the records maintained under the Contract Labour (Regulation and Abolition) Act, 1970. Separate seniority list shall be prepared for each category as per their eligibility. The continuous period of working shall be taken for purpose of reckoning in seniority in respect of village Electricity workers.

d) Rules of Reservation: The rule of reservation as per roster in terms of Reg.22 of A.P.S.E.B. Service Regulation Part-II shall be strictly followed.

e) Selection Committee:

i. Director personnel.

ii. Concerned Chief Engineer from Generating Station/Zone

iii. Deputy Secretary(Personnel)

iv. Director (Industrial Relations) – Member Convenor."

In the result, the writ petition is dismissed leaving the petitioner free to avail remedy by filing application under Section10 of the Contract Labour (Regulation and Abolition) Act, 1970.

G.S. SINGHVI, CJ

February 14, 2007
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